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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,907	08/21/2003	Hans Boeck	Q74473	6445
23373	7590	11/25/2005	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			MCCALL, ERIC SCOTT	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 11/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

4A

**Office Action Summary**

Application No.

10/644,907

Applicant(s)

BOECK ET AL.

Examiner

Eric S. McCall

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 8, 9 and 11-19 is/are rejected.
- 7) ☒ Claim(s) 3-7 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**TEST STAND WITH TIPPING DEVICE FOR MOTOR VEHICLES**

**FINAL OFFICE ACTION**

In response to the Applicant's arguments dated Sep. 14, 2005.

**CLAIMS**

**35 U.S.C. § 102(e)**

In view of the Applicant's perfection of priority, the rejection of claims 1, 2, 8, 9, and 11-19 under 35 U.S.C. 102(e) over Kemp et al. (2003/0230137) has been overcome.

**35 U.S.C. § 102(b)**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 8, 9, and 11-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (2,929,519).

With respect to independent claim 1, Taylor suggests (Fig. 1) a stand having a tipping device comprising:

- a lower frame unit (the base frame assembly 12);
- an upper frame unit (the pair of supporting rails 16) configured to tip relative to the lower frame unit; and
- four lifting units (two fore 14 and two aft 15 linkage assemblies; Fig. 5) respectively disposed in corner zones of the frame units, each of the lifting units operable to independently tip the upper frame (each lifting unit includes a cylinder which provides the ability for each lifting unit to move independently of the other lifting units).

It is noted that the phrase "Test stand for motor vehicles" in the preamble of claim 1 has not been given patentable weight because the body of the claim does not rely upon the said phrase for completeness (ie. the body of the claim does not require a test stand for a motor vehicle).

With respect to claim 2, Taylor suggests in Fig. 1 the lower frame unit and the upper frame unit are interconnected exclusively via the lifting units (Fig. 6).

With respect to claim 8, Taylor suggests the four lifting units being configured exclusively for tipping the upper frame unit (Fig. 5).

With respect to claim 9, Taylor suggests the lifting units are controlled with a control terminal via a central control unit (Fig. 1; 81-84, 86).

With respect to independent claim 11, Taylor clearly anticipates by way of Fig. 1 a stand having a tipping device comprising:

- a lower frame unit (12);

- an upper frame unit (the pair of supporting rails 16) configured to tip relative to the lower frame unit; and

- lifting means (two fore 14 and two aft 15 linkage assemblies; Fig. 5) attached to the lower frame unit and connectable to the upper frame that tip the upper frame, the lifting means providing the sole source of tipping.

It is noted that the phrase "Test stand for motor vehicles" in the preamble of claim 11 has not been given patentable weight because the body of the claim does not rely upon the said phrase for completeness (ie. the body of the claim does not require a test stand for a motor vehicle).

With respect to claim 12, Taylor suggests the lifting means being disposed in corner zones of the frame units (Fig. 1).

With respect to claim 13, Taylor suggests the lifting means includes four piston rods (the piston rods of each of the respective cylinder hoists, 48).

With respect to claim 14, Taylor suggests that the piston rods are independently operable (col. 5, lines 1-9).

With respect to claim 15, Taylor suggests the lifting means being operable to tilt any load thereon, and thus a vehicle, in at least one of a longitudinal and transverse direction relative to an axis of the load/vehicle (Figs. 1 & 5).

With respect to independent claim 16, Taylor clearly anticipates by way of Fig. 1 a stand having a tipping device comprising:

- a lower frame unit (12);

- an upper frame unit (the pair of supporting rails 16) configured to tip relative to the lower frame unit; and

- lifting units (two fore 14 and two aft 15 linkage assemblies; Fig. 5) extendable in an axial direction, each of the lifting units operable to independently (col. 5, lines 1-9) tip the upper frame.

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It is noted that the phrase "Test stand for motor vehicles" in the preamble of claim 16 has not been given patentable weight because the body of the claim does not rely upon the said phrase for completeness (ie. the body of the claim does not require a test stand for a motor vehicle).

With respect to claim 17, Taylor suggests each of the lifting units being independently extendable (col. 5, lines 1-9).

With respect to claim 18, Taylor suggests the lifting units being operable to tilt any load thereon, and thus a vehicle, in at least one of a longitudinal and transverse direction relative to an axis of the load/vehicle (Figs. 1 & 5).

With respect to claim 19, Taylor suggests the lifting units comprising four piston rods (the piston rods of each of the respective cylinder hoists, 48) disposed in corner zones of the frame units (Fig. 1).

Allowable Subject Matter

Claims 3-7 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 20 has been found to be allowable over the prior art.

**Response to Arguments**

The Applicant's arguments have been considered but have not been found persuasive. The Applicant has argued that the prior art of Taylor fails to teach four (4) lifting units nor would the assemblies be operable to independently tip the upper frame as claimed.

In response, the Examiner points out that the prior art of Taylor discloses four (4) lifting units which comprise the two fore (14) and the two aft (15) linkage assemblies. Each of the "assemblies" are interpreted as comprising the respective hydraulic cylinder (48) and the associated linkage therewith. This clearly can be seen in figures 1 and 3-5.

These four lifting units are interpreted as being disposed in the corner *zones* of the frame units as claimed. Figure 6 of Taylor shows just one of the four "corner zones".

Furthermore, the *pair* of supporting rails (16) in Taylor is that which is interpreted as the upper frame unit as claimed.

Finally, since each lifting unit is independent of the other lifting units and each lifting unit has a respective hydraulic cylinder, each lifting unit is operable to operate separately and thus to independently tip the upper frame.

With respect to the Applicant's comments pertaining to independent claim 11 and to the clarification of the lifting units of the Taylor teaching. One having ordinary skill in the art armed with the Taylor teaching would clearly have the knowledge that figure 6 of Taylor shows a "lifting unit" (or as phrased in claim 11 a "lifting means"). Figure 6 shows just one of the four



respective “lifting units” in each corner zone of the taught stand. As can be seen, each “lifting unit” includes a hydraulic cylinder (48) and the respective linkage therewith (for example, elements 44, 46, 47, 49, 53, etc.) and is interpreted as being located in the respective corner *zones* of the stand.

### **CONCLUSION**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric S. McCall  
Primary Examiner  
Art Unit 2855  
Nov. 22, 2005